IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL REVISION APPLICATION NO.371 OF 2006

Shri Sanjay Sachdev .. ..Applicant

Versus

Shri Jaikirshin Udharam Bhatia & Anr. ..Respondetns

Mr.H.H.Nagi for applicant

Mr.D.P. Adsule, APP for State

Mr.Jagdish J.Bhatia s/o deceased respondent no.1 present

CORAM : S.C.DHARMADHIKARI,J.

DATE : 9TH NOVEMBER, 2006

P.C.:

1. The application is filed only because the applicant-original accused was convicted for an offence punishable under Section 138 of the Negotiable Instruments Act. He challenged that conviction and sentence in appeal. The appeal was dismissed as not maintainable. It appears from the record that the appeal was also dismissed due to the absence of the counsel for the accused and the complainant.

2. Be that as it may, during the pendency of the present proceeding the original complainant has expired. Further, on 6.7.2006 he had filed an affidavit, copy of which is annexed to this revision application, by which it is demonstrated that after the rejection of the appeal by the Sessions Court, the parties amicably settled the entire dispute. The complainant has recorded that he has received payment from the applicnat/accused. Nothing is due and payable now and no legally enforceable debt exists.

3. After this affidavit was executed, the original complainant has expired. The matter is placed under the caption of orders and for want of compliance with the office remark about the Notice. Since the son of the complainant is present before me and he has no objection to the matter being heard finally, this application is taken up at this stage itself.

4. In the light of the affidavit, copy of which is filed and contents of which are confirmed by the complainant’s son, who is present in the court, it is directed that the proceedings in Complaint under section 138 of the Negotiable Instruments Act are disposed of and

the offence stands compounded by the applicant/accused. Nothing survives in the proceedings. No purpose is now served in restoring the appeal to file of the sessions court. Instead, it is directed that the appeal stands allowed in terms of the compromise arrived at by the parties. The conviction and sentence of the applicant is set aside. He is acquitted of the charge. The bail bond stands cancelled.

(S.C.Dharmadhikari, J.)